

## October 2, 2003 Commission Meeting Summary

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### ITEM #

1. **Public Comment.** *The Commission received public comment from Senator Ross Johnson.*

### CONSENT ITEMS

2. **Approval of the Minutes of the September 3, 2003, Commission Meeting.** *Approved with minor revision.*

### ENFORCEMENT

#### Late Contribution Reporting Violations

3. **In the Matter of BMG Entertainment; FPPC No. 03/010.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent BMG Entertainment is a music industry entity headquartered in New York, New York. Respondent committed two violations of the Political Reform Act by failing to disclose a late contribution in a properly filed late contribution report, in violation of section 84203 (a) (1 count) and by failing to file a semi-annual campaign statement, in violation of section 84200 (b) (1 count). ***Approved; \$5,250 fine.***
4. **In the Matter of the Crawford Law Firm; FPPC No. 02/703.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Crawford Law Firm is a law firm located in Des Moines, Iowa. Respondent failed to disclose a late contribution in a properly filed late contribution report, in violation of Section 84203(a) (1 count). ***Approved; \$1,500 fine.***

#### Campaign Reporting Violations

5. **In the Matter of the California Association for the Gifted Political Action Committee and Cathleen Silva, FPPC No. 00/671.** Staff: Commission Counsel Jeffery A. Sly and Investigator III Leon Nurse-Williams. Respondent Committee is a general purpose committee, sponsored by the California Association for the Gifted. Respondent Cathleen Silva was the Treasurer for Respondent Committee. Respondents failed to timely file a pre-election campaign statement in violation of Government Code section 84200.5(d) (1 count), and a semi-annual campaign statement, in violation of Government Code section 84200(a) (1 count). ***Approved; \$2,500 fine.***
6. **In the Matter of Allstate Insurance Company Political Action Committee and James P. Zils; FPPC No. 01/389.** Staff: Commission Counsel Jennie Eddy. Respondent Allstate Insurance Company Political Action Committee ("ALLPAC") is a state general purpose

recipient committee, sponsored by Allstate Insurance Company. Respondent James P. Zils was the treasurer of Respondent ALLPAC. Respondents committed four violations of the Political Reform Act by failing to disclose specific contributor information on four required campaign statements regarding individual Allstate Insurance Company employees who cumulatively contributed \$100 or more to Respondent ALLPAC, in violation of Section 84211(f) (4 counts). *Approved; \$6,000 fine.*

7. **In the Matter of M.D.C. Holdings, Inc.; FPPC No. 03/277.** Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent M.D.C. Holdings, Inc. is a national residential homebuilder, located in Denver, Colorado. Respondent committed two violations of the Act by failing to timely file a semi-annual campaign statement, in violation of Section 84200(b) (1 count), and by failing to file a semi-annual campaign statement electronically, in violation of Section 84605(a) (1 count). *Approved; \$6,000 fine.*

### **SEI Violations**

8. **In the Matter of Dwayne Bower; FPPC No. 01/305.** Staff: Commission Counsel Jennie Eddy and Investigator III Dan Schek. Respondent Dwayne Bower is a member of the governing board of the Ojai Water Conservation District, located in Ventura County. Respondent failed to timely file a 2002 annual statement of economic interests, in violation of Section 87300 (1 count). *Approved; \$2,000 fine.*
9. **In the Matter of Terry MacRae, FPPC No. 02/546.** Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Respondent Terry MacRae, a member of the California Travel & Tourism Commission, failed to timely file an initial statement of economic interests, in violation of Government Code section 87300 (1 count). *Approved; \$300 fine.*

### **Major Donor - Streamlined Procedure**

10. **Failure to Timely File Major Donor Campaign Statements.** Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section 84200:
- a. **In the Matter of Enrique & Megan Hernandez, FPPC No. 2003-312.** Enrique & Megan Hernandez of Pasadena, California failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$400 fine.*
- b. **In the Matter of William P. Carey, FPPC No. 2003-385.** William P. Carey of New York, New York failed to timely disclose contributions totaling \$20,000 (1 count). *Approved; \$400 fine.*

- c. **In the Matter of Coleman Homes, Inc., FPPC No. 2003-388.** Coleman Homes, Inc. of Bakersfield, California failed to timely disclose contributions totaling \$23,800 (1 count). *Approved; \$638 fine.*
  - d. **In the Matter of Terry L. Moreland, FPPC No. 2003-487.** Terry L. Moreland of Bakersfield, California failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$800 fine.*
  - e. **In the Matter of C. Anthony Thomas AKA Tony Thomas, FPPC No. 2003-490.** C. Anthony Thomas AKA Tony Thomas of Los Angeles, California failed to timely disclose contributions totaling \$10,500 (1 count). *Approved; \$800 fine.*
  - f. **In the Matter of Bestway Disposal Company, Inc., FPPC No. 2003-569.** Bestway Disposal Company, Inc. of Hesperia, California failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$1,500 fine.*
  - g. **In the Matter of Stanley Black & Black Equities, FPPC No. 2003-570.** Stanley Black & Black Equities of Beverly Hills, California failed to timely disclose contributions totaling \$15,715.22 (2 counts). *Approved; \$2,357.28 fine.*
  - h. **In the Matter of Gillette Company, FPPC No. 2003-576.** Gillette Company of Boston, Massachusetts failed to timely disclose contributions totaling \$10,000 (1 count). *Approved; \$1,500 fine.*
- 11. Failure to Timely File Major Donor Campaign Statements.** Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section 84200, and failing to electronically file major donor statements for the calendar year 2002, in violation of Government Code Section 84605:
- a. **In the Matter of First Management Group Investments, Inc., FPPC No. 2003-348.** First Management Group Investments, Inc. of Washington, District of Columbia failed to timely disclose contributions totaling \$25,000 (1 count). *Approved; \$400 fine.*

## **LEGAL MATTERS**

### **Pre-Notice Discussion**

- 12. Prenotice Discussion of Amendments to Regulation 18707.5 - Sources of Income to Owners of Retail Business Entities.** Staff: Commission Counsel Jill Stecher. Government Code Section 87103.5 sets forth an exception whereby a retail customer of a business entity is not considered a source of income to a public official/business owner if certain criteria are met. Regulation 18707.5 implements this section by defining these criteria. Last year, the Legislature amended Government Code Section 87103.5 by adding a new statutory definition of “significant segment” applicable only to retail businesses located in small jurisdictions. Therefore, regulation 18707.5 is presented for amendment to incorporate the 2002 statutory

provisions for small jurisdictions and to make other technical conforming and clarifying changes. *Approved for notice and adoption in December.*

### **Adoption**

- 13. Adoption of Regulation 18728.5 and Amendment of Regulation 18703.3 – Definition and Reporting of Incentive Compensation.** Staff: Commission Counsel Holly B. Armstrong. New regulation 18728.5 and amendment of regulation 18703.3 are proposed to address defining and reporting of incentive compensation as discussed by the Commission in its deliberations of *In re Hanko*. The Commission is asked to adopt new regulation 18728.5 dealing with the reporting of both commission income and incentive compensation and amendments to regulation 18703.3, which incorporate a definition of “incentive compensation.” *Adopted with revisions.*

### **ACTION ITEMS**

- 14. Regulation Calendar for the Year 2004: Setting of Priorities.** Staff: General Counsel Luisa Menchaca and Assistant General Counsel John W. Wallace. This item includes a discussion of ongoing and new projects proposed by staff. The Commission will consider its priorities for regulatory action in calendar year 2004. Final approval of the calendar will be set for December 2003. *Approved with revisions.*
- 15. Deliberation on Remand, *In the Matter of Dan Gamel, et al.*** Staff: Commission Counsel Julia Bilaver and Supervising Investigator Dennis Pellon. Opportunity for comment by the parties on the matter of the penalty to be assessed against Rudy Olmos. This matter is on remand from the 5<sup>th</sup> District Court of Appeal for the purpose of further considering factors in aggravation and mitigation, re-assessing the amount of the fine, and issuance of a written statement with respect to the basis for the fine to be assessed Mr. Rudy Olmos in connection with a single count of violating sections 84302 and 84300 of the Act by failing to disclose the true source of monies contributed to a past candidate for Fresno City Council. *The Commission imposed a \$2,000 fine on Mr. Olmos.*
- 16. Appointment of Chairman *pro Tempore*.** *Commissioner Knox was appointed Chairman pro Tempore.*
- 17. Legislative Report.** Staff: Executive Director Mark Krausse. *The report was submitted. The Commission ratified the position on AB 890 (Wesson) of oppose unless amended/support if amended adopted by the Chairman’s Subcommittee on Legislation.*

### **DISCUSSION ITEMS**

- 18. Executive Director’s Report.** Staff: Executive Director Mark Krausse. *Submitted without discussion.*
- 19. Litigation Report.** Staff: General Counsel Luisa Menchaca and Senior Commission Counsel Larry Woodlock. *Submitted without discussion.*